

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JAMES CRUTCHFIELD,

Plaintiff,

-against-

**COMPLAINT AND  
JURY DEMAND**

CITY OF NEW YORK and WINSTON FAVIS,

07 Civ. 04693

Defendants.  
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Plaintiff, as and for his Complaint, by his undersigned attorneys, alleges as follows:

**INTRODUCTION**

1. This action is brought by a workers' rights advocate who was falsely arrested and maliciously prosecuted for handing out leaflets.

**JURISDICTION**

2. This Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343, and 42 U.S.C. § 1983. This Court's supplemental jurisdiction is also invoked. Plaintiff filed a Notice of Claim with defendant City of New York on or about February 28, 2007.

**PARTIES**

3. Plaintiff James Crutchfield ("Crutchfield") is a United States citizen and a resident of New York State.

4. Defendant Winston Favis (“Favis”) is employed as a Police Officer by defendant City of New York. Favis’s shield number is 23096, and he is assigned to the 26th Precinct in New York County.

**FACTS RELEVANT TO ALL CLAIMS**

5. On February 11, 2007, Crutchfield was distributing leaflets on Amsterdam Avenue between Cathedral Parkway and West 111th Street, New York, New York. The leaflets were to alert the public that Columbia Cottage, a restaurant located on that block, had a business relationship with a company that did not pay its employees minimum wage or overtime, and that had committed other labor law violations.

6. At or about 8:50 P.M., Favis directed Crutchfield to leave. Favis advised Crutchfield he was “not welcome here” because Crutchfield “was hurting business.” Crutchfield refused to leave.

7. Favis arrested Crutchfield, and charged Crutchfield with two counts of disorderly conduct. Plaintiff had committed no crime or offense.

8. Favis seized between 100 and 150 flyers.

9. On May 1, 2007, in Part SAP-1, Criminal Court of the City of New York, Crutchfield was arraigned on one count of disorderly conduct.

10. On May 30, 2007, in Part SAP-1, Crutchfield was tried on one count of disorderly conduct. Favis testified for the prosecution.

11. After the close of the prosecution’s case, the Court granted Crutchfield’s motion for a trial order of dismissal.

**AS AND FOR A FIRST CAUSE OF ACTION**

12. Favis arrested Crutchfield and seized his property without probable cause that he had committed any offense. In taking these actions, Favis violated plaintiff's right to be free from unreasonable search and seizure, and his right to due process, under the Fourth and Fourteenth Amendments of the United States Constitution.

13. Favis acted with malice and in reckless disregard of plaintiff's rights protected under Federal law.

**AS AND FOR A SECOND CAUSE OF ACTION**

14. Favis prosecuted Crutchfield maliciously and without probable cause that he had committed any offense. In taking these actions, Favis violated plaintiff's right to due process under the Fourteenth Amendment of the United States Constitution.

15. Favis acted with malice and in reckless disregard of plaintiff's rights protected under Federal law.

**AS AND FOR A THIRD CAUSE OF ACTION**

16. Favis arrested and prosecuted Crutchfield in retaliation for Crutchfield's distribution of leaflets containing Crutchfield's opinion regarding an issue of public concern. In taking these actions, Favis violated Crutchfield's right to free speech, and his right to due process, under the First and Fourteenth Amendments of the United States Constitution.

17. Favis acted with malice and in reckless disregard of plaintiff's rights protected under Federal law.

**AS AND FOR A FOURTH CAUSE OF ACTION**

18. The City of New York and Favis falsely arrested Crutchfield, in violation of New York State common law.

19. The City of New York and Favis willfully and maliciously engaged in these unlawful acts.

**AS AND FOR A FIFTH CAUSE OF ACTION**

20. The City of New York and Favis maliciously prosecuted Crutchfield, in violation of New York State common law.

21. The City of New York and Favis willfully and maliciously engaged in these unlawful acts.

WHEREFORE, plaintiff respectfully requests that this Court enter a judgment:

**ON THE FIRST, SECOND, AND THIRD CAUSES OF ACTION**

(a) declaring that the acts and practices complained of herein are in violation of the First, Fourth, and Fourteenth Amendments of the United States Constitution;

(b) enjoining and permanently restraining these constitutional violations;

(c) awarding plaintiff compensatory and punitive damages and damages for his mental anguish and humiliation;

(d) awarding plaintiff reasonable attorney's fees, costs, and disbursements;

(e) granting such other and further relief as this Court deems just and proper;

## ON THE FOURTH AND FIFTH CAUSES OF ACTION

(f) awarding compensatory and punitive damages in an amount not yet ascertained; and

(g) awarding plaintiff reasonable attorney's fees, costs, and disbursements.

## DEMAND FOR A TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, plaintiff demands a trial by jury on all of the causes of action herein.

Dated: New York, New York  
June 1, 2007

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